

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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UNITED STATES OF AMERICA,

Criminal No. 13-259 (JRT/LIB)

Plaintiff,

v.

**ORDER DENYING MOTION TO  
STAY ORDER OF RELEASE**

JAMES WHITE, JR.,

Defendant.

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Diedre Y. Aanstad, Assistant United States Attorney, **UNITED STATES ATTORNEY'S OFFICE**, 600 United States Courthouse, 300 South Fourth Street, Minneapolis, MN 55415, for plaintiff.

Peter B. Wold and Aaron J. Morrison, **WOLD MORRISON LAW**, 247 Third Avenue South, Minneapolis, MN 55415, for defendant.

The Court granted Defendant James White, Jr.'s motion for acquittal after a jury found White guilty of assault resulting in serious injury. The Court concluded that the government failed to present evidence supporting an inference beyond a reasonable doubt that White was guilty of the crime. The Court accordingly ordered White released from custody. The government now moves to stay the order of release.

The government points to 18 U.S.C. § 3143(c), arguing that it directs the Court to treat the defendant in accordance with 18 U.S.C. § 3142, which directs judicial officers to consider whether any set of conditions of release will "reasonably assure the appearance of the person as required and the safety of any other person or the community," in considering whether to detain a defendant before trial. 18 U.S.C. § 3142(e)(1). The government argues that the Court already found that there were no conditions of release

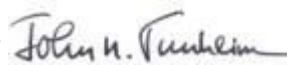
that would reasonably ensure the safety of the community or the defendant's continued appearance in Court, referencing an order by United States Magistrate Judge Leo I. Brisbois. (Order, Nov. 12, 2013, Docket No. 28.) But that order addressed whether to detain White before trial, relying on factors from other pretrial detention cases, which look to aspects related to the crime charged. *See United States v. Abad*, 350 F.3d 793, 797 (8<sup>th</sup> Cir. 2003) (considering, among other things, "the nature and circumstances of the crime" and "the weight of the evidence against the defendant" in determining whether to detain a defendant before trial).

This circumstance is distinct from the pretrial detention stage: the Court has already concluded that the government did not present sufficient evidence upon which a jury could conclude beyond a reasonable doubt that White committed the crime charged and White is currently subject to no reporting obligations. White has already been detained for at least seven months for a crime that the Court has concluded the government did not prove he committed. The Court therefore declines to stay its order of release at this time and will deny the government's motion without prejudice. The Court will readdress the issue, if necessary, should the government decide to appeal.

### **ORDER**

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that the Government's Motion to Stay Order of Release [Docket No. 75] is **DENIED without prejudice**.

DATED: June 3, 2014  
at Minneapolis, Minnesota.

s/   
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JOHN R. TUNHEIM  
United States District Judge